

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AUNDRE MURRAY,)
)
Petitioner,)
)
v.) No. 4:09-CV-337 CAS
)
STATE OF MISSOURI,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus, which the Court construes as having been filed pursuant to 28 U.S.C. § 2241. Petitioner, a pretrial detainee at St. Louis City Justice Center, has filed his petition on the grounds that he was falsely arrested and that his alleged victim has submitted an affidavit of non-prosecution. The petition will be summarily dismissed.

Under 28 U.S.C. § 2241(c)(3), the federal courts have jurisdiction over pretrial habeas petitions. Neville v. Cavanagh, 611 F.2d 673, 675 (7th Cir.1979). "Despite the existence of jurisdiction, however, federal courts are reluctant to grant pre-trial habeas relief." Id. Only when "special circumstances" exist will a federal court find that a pretrial detainee has exhausted state remedies. Id. "In most cases courts will not consider claims that can be raised at trial and in subsequent state proceeding." Blanck v. Waukesha County, 48 F.Supp.2d 859, 860 (D. Wis. 1999). Courts have found that "special circumstances" existed where double jeopardy was at issue or where a speedy trial claim was raised. Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 488 (1973) (speedy trial); Blanck, 48 F. Supp. 2d at 860 (double jeopardy).

The grounds raised by petitioner do not constitute the “special circumstances” required for a finding that he has exhausted his available state remedies. The claims raised by petitioner can be adequately raised at trial and in subsequent state proceedings. As a result, the Court will deny the petition.

Accordingly,

IT IS HEREBY ORDERED that petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED**.

IT IS FURTHER ORDERED that petitioner’s motion to proceed in forma pauperis is **GRANTED**. [Doc. 2]

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Order of Dismissal will accompany this Memorandum and Order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 4th day of March, 2009.